

FREDERICK COUNTY BOARD OF APPEALS MEETING MINUTES FOR THURSDAY, APRIL 22, 2010.

Ronald Peppe, Sr., Vice Chair, called to order a meeting of the Frederick County Board of Appeals ("Board") for Thursday, April 22, 2010 at 7:00 p.m. Present were John Clapp, Sean Michalski, Alan Duke and Chris Manners. Also present were Michael Chomel, Senior Assistant County Attorney, and Planning Division staff Larry Smith, Zoning Administrator, Rick Brace, Principal Planner II, and Erica Cooke, Recording Secretary.

Official Minutes of the Board of Appeals' meetings are kept on file in the Planning Division.

Mr. Peppe, Sr. stated the rules and procedures for the evening and swore in all persons who expected to testify at the meeting.

Approval of Minutes

On a motion from Mr. Clapp, seconded by Mr. Michalski, the Board unanimously approved the minutes of March 25, 2010.

Cases

B-08-20 Craig Case (Robert & Barbara Craig) - Actions

As a result of action taken by the Board at its last meeting, the body picked up the Court issues noted in Judge Tisdale's decision filed February 1, 2010 for consideration and action as ordered. Present were Mr. and Mrs. Craig, their attorney Ms. Leslie Powell and attorney for the Division of Permitting and Development Review, Ms. Kathy Mitchell. Mr. Manners noted he had reviewed the case materials and the video log of the case.

Both Ms. Powell and Ms. Mitchell submitted case law they considered pertinent to their points; Ms. Powell noted an objection to Ms. Mitchell's submission of a memorandum dated April 9, 2010 indicating it had only been received the day of the hearing.

Mrs. Craig and Ms. Powell made it clear that they believed the Board could move forward and fulfill the court order by approving the subdivision. Ms. Mitchell requested the Board not take immediate action, but rather wait until the appeal filed with the Court of Special Appeals might be decided. Both parties recognized that a settlement had been discussed by the parties but has not yielded a solution yet.

Mr. Duke motioned for stay of the case until higher court action is taken, but it failed for lack of a second.

Mr. Michalski motioned that the subdivision be granted in accordance with Judge Tisdale's order, seconded by Mr. Clapp. The motion failed (2:3 Nays- Mr. Peppe, Mr. Duke, Mr. Manners)

Mr. Duke motioned to stay the decision until the Court of Special Appeals decision is rendered, seconded by Mr. Michalski and adopted (4:1 Nay- Mr. Clapp)

B-10-03 Randy and Karen Sowers

An application was filed requesting a 34 ft. variance from the 65 ft. required front yard setback from the centerline of the road in order to expand an existing building, located on the east side of Bolivar Road and approximately 300 ft. east of Reno Monument Road (Tax Map 54, Parcels 192 and 204), zoned Agricultural.

Several speakers rose to support the Applicants, including the Agricultural Specialist from the County's Office of Economic Development, Colby Ferguson.

A motion by Mr. Michalski, seconded by Mr. Duke to grant the variance was adopted on a (3:1:1 Nay- Mr. Clapp, Abstain- Mr. Manners).

Being no further business, the meeting was adjourned at 9:32 p.m.

Respectfully Submitted,

Richard L. Brace
Secretary

Ronald Peppe, Sr., Vice Chair